

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 17249 of 2007(C)

PETITIONER:

G.BHASKARAN, 64 YEARS
S/O.GOPALAN, MANAGING DIRECTOR
VARKALA MARINE PALACE
PAPANASANAM, VARKALA

BY ADV. SRI.K.B.SURESH

RESPONDENTS:

1. VARKALA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY
VARKALA
2. STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY
GOVT. SECRETARIAT, TRIVANDRUM

R1 BY ADV. SRI.J.S.AJITH KUMAR,SC,VARKALA MUNICIPALITY.
R2 BY GOVT. PLEADER SRI. P.K. RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.M.JOSEPH, J.

WP.(C) No.17249 of 2007

Dated this the 13th day of June, 2007

JUDGMENT

Petitioner challenges Ext.P13. According to the petitioner, petitioner is running a tourist resort and he has put up coconut leaf huts without any walls and standing on bamboo struts with the permission of the first respondent obtained in 1999. It is stated that at the behest of a rival resort owner with political connections Ext.P13 notice is stuck on the gate of the resort directing demolition.

2. Counter affidavit is filed by the first respondent. It is inter alia stated as follows:

“It is submitted that the property of petitioner is situated in C.R.Z. I area and as permanent structures will be permitted to construct in violation of Kerala Building Rules, Municipalities Act and Coastal Regulation Act and Rules.

The petitioner ought not have effected any construction in violation of Municipalities Act as well as Building Rules and himself is bound to remove all illegal structures within his property. The petitioner ought to have obtained permission from the Health Inspector under Food

Adulteration Act in every constructions which is part and parcel of restaurant. In reply to Ext.P13, petitioner herein on 27.5.2007 sought 7 days time for demolition of the temporary structures and filed the above writ petition with ulterior motives. Petitioner herein has not applied for renewal of licence to this respondent till date.

For the renewal of licence, if any, the petitioner ought to have submitted application before the 1st respondent and if any application is submitted with undertaking that he will not effect any constructions against Building Rules, this respondent will consider the same in accordance with law. All the contentions and allegations levelled against the first respondent lacks any bonafides and hence denied.”

2. Learned counsel for the respondent Municipality would submit that if the petitioner makes an application for renewal of the license with an undertaking that he will not make any construction against the Building Rules, the application of the petitioner will be considered. It is submitted by the learned counsel for the petitioner that the petitioner had already submitted an application.

The writ petition is disposed of as follows:

If such an application is made by the petitioner, the matter will be

considered as undertaken by the respondent Municipality in accordance with law within two weeks from the date of receipt of the application. I record the submission of the learned counsel for the Municipality that Ext.P13 was issued as no application was received.

(K.M. JOSEPH, JUDGE)

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